

RESTRICTED - INVESTIGATION

DISOBEDIENCE TO THIS ORDER IS A CONTEMPT OF COURT WHICH IF YOU ARE AN INDIVIDUAL IS PUNISHABLE BY IMPRISONMENT OR IF YOU ARE A BODY CORPORATE IS PUNISHABLE BY SEQUESTRATION OF YOUR ASSETS AND BY IMPRISONMENT OF ANY INDIVIDUAL RESPONSIBLE

**IN THE CROWN COURT SITTING AT
BLACKFRIARS**

Before His Honour Judge **PONTIUS** sitting in Private

No. **PCA 2007/003**

Dated **15th NOVEMBER 2007**

IN THE MATTER OF ROBERT BOOTH NICHOLS (Defendant)

AND

IN THE MATTER OF THE PROCEEDS OF CRIME ACT 2002

RESTRAINT ORDER PROHIBITING DISPOSAL OF ASSETS

TO: (1) ROBERT BOOTH NICHOLS (the defendant)
(2) ELLEN M. NICHOLS (Spouse of the defendant)
(3) HSBC PLC

PENAL NOTICE

If you **ROBERT BOOTH NICHOLS, ELLEN M. NICHOLS, or HSBC PLC** disobey this Order you may be held to be in contempt of court and may be imprisoned, fined or have your assets seized.

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Any other person who knows of this order and does anything which helps or permits **ROBERT BOOTH NICHOLS, ELLEN M. NICHOLS, or HSBC PLC** to breach the terms of this Order may also be held to be in contempt of court and may be imprisoned, fined or have their assets seized.

IMPORTANT: NOTICE TO ROBERT BOOTH NICHOLS, ELLEN M. NICHOLS, and HSBC PLC.

This order prohibits you **ROBERT BOOTH NICHOLS, ELLEN M. NICHOLS**, from dealing with your assets, and **HSBC PLC** from dealing with the funds contained within US Dollar account number 57409731, sort code 40-05-15 held at HSBC Bank PLC, 129 New Bond Street, London, W1A 2JA.

The Order is subject to the exceptions contained in the Order. You should read it all carefully.

You are advised to consult a solicitor/attorney as soon as possible. If you are resident in England or Wales, under paragraph 2 of schedule 2 of the Access to Justice Act 1999, as amended by paragraph 36 of schedule 11 of Proceeds of Crime Act 2002, you may be entitled to Community Legal Service Funding in respect of this Order. Your solicitor will be able to provide you with the appropriate forms. Such applications should be submitted to the Legal Services Commission, 29-37 Red Lion Street London WC1R 4PP. In relation to LSC funding (formerly Legal Aid) general enquiries may be directed to the free LSC telephone helpline: 0800 085 6643.

You have a right to ask this court to vary or discharge this Order, see paragraph 7 below. If you wish to do this you must serve on the **Fraud Prosecution Service** and all other affected parties a copy of the application and any witness statement in support at least TWO [2] clear working days before the date fixed for the hearing.

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There is an interpretation section at page 8 of this order.

THE ORDER

1. This is a Restraint Order made against **ROBERT BOOTH NICHOLS** (the defendant), **ELLEN M. NICHOLS** (Spouse of the defendant), and, **HSBC PLC**, made on **15th NOVEMBER** 2007 by His Honour Judge **PONTIUS** on the application of the Fraud Prosecution Service ("the Prosecutor"). The Judge read the witness statements listed in Schedule A, and accepted the undertakings set out in Schedule B at the end of this order.
2. This Order was made without notice to **ROBERT BOOTH NICHOLS**, and **ELLEN M. NICHOLS**. **ROBERT BOOTH NICHOLS**, **ELLEN M. NICHOLS**, and **HSBC PLC** has a right to apply to the court to vary or discharge the Order. See paragraph 7 below.

DISPOSAL OF OR DEALING WITH ASSETS

3. The Defendant and Ellen M. Nichols must not: -
 - a. Remove from England and Wales any of his/her assets which are in England and Wales.
 - b. In any way dispose of, deal with or diminish the value of any of his/her assets in England and Wales.
4. Paragraph 3 applies to all the Defendant and Ellen Nichols's assets in England and Wales whether or not the assets are described in this order or are transferred to the Defendant or Ellen Nichols after the order is made are in his/her own name and whether they are solely or jointly owned. For the purpose of this order the Defendant and Ellen Nichols's assets include any asset which he or she has the power, directly or indirectly, to dispose of or deal with as if it were their own. The Defendant and Ellen Nichols are to be regarded as having such power if

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a third party holds or controls the asset in accordance with his or her direct or indirect instructions.

5. This prohibition includes the following assets in particular: -

- a. US Dollar account number 57409731, sort code 40-05-15 with HSBC Bank PLC, at 129 New Bond Street, London, W1A 2JA held in the names Robert B. Nichols and Ellen M. Nichols, and the funds held therein.

EXCEPTIONS TO THIS ORDER

- 6.
 - 6. This Order does not prevent: -
 - a. any person from paying any money in satisfaction of the whole or part of any confiscation order which may be made against the defendant; or,
 - b. the levy of distress upon any goods subject to this order for the purpose of enforcement of any confiscation order which may be made against the defendant.

VARIATION OR DISCHARGE OF THIS ORDER

- 7. Anyone affected by this Order may apply to the court at any time to vary or discharge this order (or so much of it as affects that person), but they must first inform the Prosecutor and **ROBERT BOOTH NICHOLS, ELLEN M. NICHOLS, and HSBC PLC** giving two working days notice together with a witness statement in support of the application.

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EFFECT OF THIS ORDER

8. A person who is an individual who is ordered not to do something must not do it himself, or in any other way. He/She must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.
9. A person who is not an individual which is ordered not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.

PARTIES OTHER THAN THE DEFENDANT

Effect of this order

10. It is a contempt of court for any person notified of this Order knowingly to assist in or permit a breach of this Order. Any person doing so may be imprisoned or fined. He/she is also at risk of prosecution for a money laundering offence.

Set off by banks

- 11 This Order does not prevent any bank from exercising any right of set off it may have in respect of any facility which it gave to the defendant before it was notified of this Order.

Withdrawals by the Defendant

- 12 No bank need enquire as to the application or proposed application of any money withdrawn by the defendant if the withdrawal appears to be permitted by this Order.

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Existing Charges

13. This Order does not prevent any financial institution from enforcing or taking any other steps to enforce an existing charge it has in respect of a property or properties so secured.

Persons outside England, Wales, Scotland and Northern Ireland

14. Except as provided in paragraph (14) below, the terms of this Order do not affect or concern anyone outside the jurisdiction of this court, Scotland or Northern Ireland.

15. The terms of this Order will affect the following persons in a country or state outside the jurisdiction of this court, Scotland or Northern Ireland: -

(a) A person to whom this Order is addressed or the officer or agent appointed by power of attorney of such a person;

(b) Any person who: -

(i) is subject to the jurisdiction of this court, Scotland or Northern Ireland;

(ii) has been given written notice of this Order at his/her residence or place of business within the jurisdiction of this court, Scotland or Northern Ireland; and,

(iii) is able to prevent acts or omissions outside the jurisdiction of this court, Scotland or Northern Ireland which constitute or assist in a breach of the terms of this Order; and,

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- (c) Any other person, only to the extent that this Order is declared enforceable by or is enforced by a court in that country or state.

Enforcement in Scotland and Northern Ireland

16 This Order shall have effect in the law of Scotland and Northern Ireland, and may be enforced there, if it is registered under the Proceeds of Crime Act 2002 (Enforcement in Different Parts of the United Kingdom) Order 2002.

Assets located outside England and Wales

17 Nothing in this Order shall, in respect of assets located outside England and Wales, prevent any third party from complying with: -

- a. What it reasonably believes to be its obligations, contractual or otherwise, under the laws and obligations of the country or state in which those assets are situated or under the proper law of any contract to which it is a party; and,
- b. Any Orders of the courts of that country or state, provided that reasonable notice of any application for such an Order is given to the Prosecutor; unless those assets are situated in Scotland or Northern Ireland, in which case this Order must be obeyed there.

UNDERTAKINGS

18 The Fraud Prosecution Service gives to the Court the undertakings set out in Schedule B to this Order.

DURATION OF THE ORDER

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19. This Order will remain in force until it is varied or discharged by a further Order of this court.

INTERPRETATION

20 Reference to the “defendant” means ROBERT BOOTH NICHOLS (the defendant). Reference to an asset belonging to the defendant includes any property in which the defendant has an interest and any property to which the defendant has a right situated in the United Kingdom.

21 A period of time expressed as a number of days shall be computed as clear days as defined in rule 57.2 of the Criminal Procedure Rules 2005.

COSTS

22 The costs of this Order are reserved.

COMMUNICATIONS WITH THE COURT

23 All communications to the court about this Order should be sent to the Crown Court at Blackfriars, 1-15 Pocock Street, London, England, SE1 0BJ quoting the case number. The office is open between 10am and 4.30pm Monday to Friday. The telephone number is 020 7922 5800.

ADDRESS OF THE PROSECUTOR FOR SERVICE AND ANY COMMUNICATION IN RESPECT OF THESE PROCEEDINGS

All communications to the Prosecutor about this Order should be sent to The Fraud Prosecution Service, Rose Court, 3rd Floor, 2 Southwark Bridge, London SE1 9HS, the telephone number being 020 7023 6500 quoting the defendant's name. The Fraud Prosecution Service is open between 9.00am & 4.30pm Monday to Friday inclusive.

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COURT STAMP



His Honour Judge

Pontius

Signed.....

[Signature]

Date

15 November 2007

SCHEDULE A

WITNESS STATEMENTS

- (1) Witness Statement of Detective Constable Stephen Robert ANNIS.
- (2) Copy of Mutual Legal Aide Treaty request for assistance from USA

SCHEDULE B

UNDERTAKINGS GIVEN TO THE COURT BY THE PROSECUTOR

- (1) The prosecutor will serve upon **ROBERT BOOTH NICHOLS,**
and **ELLEN M. NICHOLS; -**
 - (a) a copy of this order; and
 - (b) a copy of the witness statement containing the evidence
relied upon by the Prosecutor, and any other documents
provided to the court on the making of the application.
- (2) **HSBC PLC** and anyone else notified of this order will be given a
copy of it by the Prosecutor.
- (3) The Prosecutor will pay the reasonable costs of anyone other than

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ROBERT BOOTH NICHOLS, and ELLEN M. NICHOLS

which are incurred as a result of this order including the costs of finding out whether that person holds any of the defendant's assets, save that the prosecutor will not without an order of the court be obliged to pay any legal or accountancy costs so incurred unless the prosecutor first gives its consent in writing.